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In The
SUPREME COURT of the UNITED STATES
October Term, 1996

Claire A. Doucette
Malcolm J. Sperry, *Petitioners*

v.

Superior Court for the County of
San Diego
San Diego Unified Port District,
Respondents

On Petition For Writ Of Certiorari
To The Supreme Court of the
State of California

PETITION FOR WRIT OF CERTIORARI

Claire A. Doucette and
Malcolm J. Sperry, pro se
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San Diego, CA 92106
619-222-1186 (msg)
619-965-5452 (pgr)

Whether San Diego Bay, its submerged lands, tide lands and added lands are still under Federal ownership, jurisdiction and law pursuant to 43 USC 1301-1315 as amended by U.S.v Cal, (1965) 85 S.Ct.1401, 381 U.S.139; U.S. v Cal.(1966) 86 S.Ct.607, 382 U.S.448; U.S.v Cal. (1977) 97 S.Ct.2915, 431 U.S.40; U.S. v Cal. (1980) 449 U.S.408 and defined by terms in accordance with 15 UST 1607.

Whether the California Harbors and Navigation Code, Appendix I, California Statute 1744 and San Diego Unified Port District's Codes 4.30, 4.35, 4.40 and 8.25 are repugnant to the above Statute, treaty and laws of the United States, as well as the United States Constitution, Art.I, sect.10, par 1; Art.III, sect.2, par. 1; Art.VI, par. 2, Constitutional Amendments IX and XIV, Federal Statutes 28 USC 1331, 28 USC 1333, 33 USC 403, 33 USC 471, 46 USC 740 and 16 USC 1456.

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OPINIONS BELOW

The opinion of the Supreme Court of California (Pet.App.S050847) is unreported. The opinion of the Court of Appeals of the Fourth District (Pet.App.D024978) is unreported.

JURISDICTION

The judgement of the Supreme Court of California was entered on January 23, 1996. Pet.App.S050847.

The jurisdiction of this Court to grant the Petition for a Writ of Certiorari rests on 28 USC 1257, U.S. S.Ct. Rule 10 (1)(c).

This case is not a "quiet title" action to determine the true owner of San Diego Bays submerged lands, tide lands and added lands, for this has already been done by this Court. It is a case to restore the navigable capacity of the bay of San Diego, as well as all other Federally owned bays as Congress, the Constitution, the international community and admiralty law have intended and to reaffirm Federal ownership of these lands, re-establish federal jurisdiction as it once was, and seek a permanent injunction to forever bar further State actions against all classes of mariners and their vessels who navigate on the bay of San Diego, therefore arising under 28 USC 1331 and the United States Constitution Art.III, sect.2, par.1

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. Art. III. sect. 2. par. 1:

"The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of the same State claiming lands under grants of different States, and between a State or citizens thereof, and foreign states, citizens or subjects. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state."

U.S. Const. Art. VI. par. 2:

"The constitution and laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land;

U.S. Const. Art. I. sect. 10. par. 1:

Amendment XI:

"No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."

STATUTORY PROVISIONS INVOLVED

43 USC 1301-1315, the Submerged Lands Act, is omitted under U.S. S.Ct Rule 14(1)(f) due to its length. See Appendix.

28 USC 1331:

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

28 USC 1333:

"The district courts shall have original jurisdiction, exclusive of the States of:

(1) Any civil case of admiralty or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled."

(2) Any prize brought into the United States and all proceeding for the condemnation of property taken as prize."

33 USC 471:

"The Secretary of Transportation is authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime and commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Coast Guard under the direction of the Secretary of Transportation: Provided, That at ports or places where there is no Coast Guard vessel available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of Transportation. In the event of the violation of

any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of \$100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of Transportation."

33 USC 403

"The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structure in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans

recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate, fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army."

46 USC 740:

"The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable water, notwithstanding that such damage or injury be done or consummated on land. In any such case suit may be brought in rem or in personam according to the principles of law and the rules of practice obtaining in cases where the injury or damage has been done on navigable water: Provided, That as to any suit against the United States for

damage or injury done or consummated on land by a vessel on navigable waters, the Public Vessels Act or Suits in Admiralty Act, as appropriate, shall constitute the exclusive remedy for all causes of action arising after June 19, 1948, and for all causes of action where suit has not been hitherto filed under the Federal Tort Claims Act: Provided further, That no suit shall be filed against the United States until there shall have expired a period of six months after the claim has been presented in writing to the Federal agency owning or operating the vessel causing the injury or damage."

16 USC 1456

"(c) Construction with other laws. Nothing in this act shall be construed: (1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters...(2) as superseding, modifying, or repealing existing laws applicable to the various Federal Agencies."

**FEDERAL REGULATION PROVISIONS
INVOLVED**

33 CFR 1.05-1(b):

"The Secretary of Transportation by 49 CFR 1.45 and 1.46 has delegated to the Commandant, U.S. Coast Guard, the authority to issue regulations regarding the functions, powers and duties of the Coast Guard together with the authority to redelegate and authorize successive re-delegations of that authority within the Coast Guard."

33 CFR 1.05-3(g):

"the Commandant redelegates to each Coast Guard District Commander, with the reservation that this authority shall not be further redelegated, the authority to issue rules and regulations pertaining to the following: (1) Anchorage Grounds and special anchorage areas."

TREATY PROVISIONS INVOLVED

15 UST 1607. Convention on the Territorial Sea and the Contiguous Zone (Law of the Sea)

Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State
2. Where the establishment of a

straight baseline in accordance with Article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

Article 7

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall

be regarded as forming part of the coast."

Article 14:

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation, through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, making for the high sea from internal waters.

3. Passage includes stopping and anchoring but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress.

Article 15

1. The coastal State must not hamper innocent passage through the territorial sea.

U. S. SUPREME COURT DECISIONS
INVOLVED

U.S. v. Cal (1947) 67 S.Ct. 1658

"The United States of America is now, and has been at all times pertinent hereto, possessed of paramount rights in, and full

dominion and power over, the lands, minerals and other things underlying the Pacific Ocean lying seaward of the ordinary low-water mark on the coast of California, and outside inland waters, extending seaward three nautical miles and bounded on the north and south, respectively, by the northern and southern boundaries of the State of California. The State of California has no title thereto or property interest therein."

U.S. v Cal (1965) 85 S.Ct.1401

"The present case requires us to determine the extent of submerged lands granted to the State of California by the Submerged Lands Act of 1953, and in particular to declare whether specified bodies of water on the California coast are "inland waters" within the meaning of the Act.....

"Inland waters" is not defined by the Act."...

"Removal of the definition for inland waters and the addition of the three-mile limitation in the Pacific, when taken together, unmistakably show that California cannot prevail in its contention that "as used in the

Act, Congress intended inland waters to identify those areas which the States always thought were inland waters". By deleting the original definition of "inland waters" Congress made plain its intent to leave the meaning of the term to be elaborated by the courts, independently of the Submerged Lands Act.".....

"The Convention on the Territorial Sea and the Contiguous Zone, approved by the Senate and ratified by the President, provides such definitions."

U.S. v Cal (1966) 86 S.Ct.607

"As used herein "coast line" means-

(a) The line of mean lower low water on the mainland, on islands, and on low-tide elevations lying wholly or partly within three geographical miles from the line of mean lower low water on the mainland or on an island, and

(b) The line marking the seaward limit of inland waters.

The coast line is to be taken as heretofore or hereafter modified by natural or artificial means, and includes the outermost permanent harbor works that form

an integral part of the harbor system within the meaning of Article 8 of the Convention on the Territorial Sea and the Contiguous Zone, T.I.A.S. No 5639.".....

"As used herein, "inland waters" means waters landward of the baseline of the territorial sea, which are now recognized as internal waters of the United States under the Convention of the Territorial Sea and the Contiguous Zone."....

"The inland waters referred to in paragraph 2(b) hereof include...

(b) Any port landward of its outermost harbor works and a straight line across its entrance."

U.S. v Cal (1977) 97 S.Ct. 2915

"For the purpose of identifying with greater particularity parts of the boundary line, as defined by Supplemental Decree of January 31, 1966, 382 U.S.448, 86 S.Ct.607, 15 L.Ed.571, between the submerged lands of the United States and the submerged lands of the State of California, it is ORDERED, ADJUDGED AND DECREED, that this Court's Supplemental Decree of January 31, 1966, be, and the

same is hereby, further
supplemented as follows:....

*2. Artificial Extensions of the
Coastline*

The mean lower low-water line
along each of the following
structures is part of the
coastline of California for
purposes of establishing the
Federal-State boundary under the
Submerged Lands Act:...

p. The Zuniga jetty at San Diego
(including the southern seaward
end of the entire structure).

U.S. v Cal. (1980) 449 U.S.408

"IT IS ORDERED, ADJUDGED AND
DECREEED that the Decree of
October 27, 1947 (332 U.S.804),
and the Supplemental Decrees
heretofore entered in this cause
on January 31, 1966 (382
U.S.448), June 13, 1977 (432
U.S.40), and November 27, 1978
(439 U.S.30), be, and the same
hereby are further supplemented
as follows:....

2. The inland waters of San
Diego Bay are those enclosed by
a straight line from the seaward
end of Point Loma...to the point
at which the line of mean lower
low water intersects with the
southern seaward end of the
entire Zuniga jetty..."

STATEMENT

Although Petitioner Doucette had not been
cited for violating any of Respondent Port
District's laws, she first challenged the
State statutes and codes by bringing to
the Federal District court's attention the
preemptive powers of Federal Constitution,
laws and treaty and the four referenced
Supreme Court cases, U.S. v Cal (1965),
85 S.Ct.1401, 381 U.S. 139; U.S. v Cal
(1966) 86 S.Ct.607, 382 U.S.448; U.S. v
Cal (1977) 97 S.Ct. 2915, 431 U.S. 40,
U.S. v Cal.(1980) 449 U.S. 408, which
amended the Submerged Lands Act, (43 USC
1301-1315) in concert with the Law of the
Sea treaty (15 UST 1607) settling the land
ownership controversy over San Diego Bays
submerged lands, tide lands and added
lands. (Doucette v. San Diego Port
District et al. and State of California,
case no.CV 95-682H (POR), filed May 26,
1995)

Respondents Port District and State of
California joined in "Motion to Dismiss
for Failure to State a Claim upon which
Relief Can Be Granted", filed June 15,
1995 and July 18, 1995, respectively.
Motion to Dismiss was granted on July 27,
1995 and is currently on appeal in the
Ninth Circuit court of Appeals (case no.
95-56126).

In the interim, on June 6, 1995,
Co-petitioner and husband of Petitioner,
Malcolm J. Sperry, was cited by Respondent
Port for violation of San Diego Unified

Port District Code 4.40, whereupon he responded with a "Motion to Dismiss for Lack of Subject Matter Jurisdiction" in Superior Court of the State of California for San Diego County (filed November 1, 1995, case no 689204). In this motion all of the identical federal arguments raised in Petitioner's case were again raised. The Superior Court denied the Motion to Dismiss by telephonic ruling on December 8, 1995.

Petitioner Doucette, subsequently filed a "Petition for Writ of Prohibition" in the California Court of Appeal, Fourth District on December 11, 1995, case no. D024978, again raising the identical federal issues.

The Fourth District Court denied Petitioner's "Petition for Writ of Prohibition" on December 13, 1995.

"The petition for writ of prohibition has been read and considered by Justices Benke, Nares and Haller. The petition is denied." (Case no.D024978)
s/Nares

On December 12, 1995, Respondent Port filed, in Superior Court, a "Motion for Summary Judgement" (Feb.2, 1996, case no. 689204). Defendant Sperry answered with the identical federal argument he and his Petitioner wife had used in all previous referenced litigation.

"Motion for Summary Judgement" was granted in a telephonic ruling on February 2, 1996

and a subsequent "Motion for Reconsideration" was denied in a telephonic ruling on March 8, 1996.(case no.689204)

Following denial of the "Petition for Writ of Prohibition" by the Court of Appeal, Petitioner filed a "Petition for Review" in the California Supreme Court on December 22, 1995. Again, the identical federal arguments were raised. California Supreme Court denied certiorari on January 23, 1996, case no.S050847.

CONCLUSION

Exactly 60 days after the U.S v Cal decision of 1965 the State of California granted respondent San Diego Unified Port District, certain tidelands and submerged lands located in San Diego Bay (see Appendix, Statues of California, Chapter 1744 p.ix) in defiance of that ruling and in contempt of this Court.

Their powers have been used to the detriment of the citizens and foreigners, who have a constitutional and statutory right to use the bay for commerce, recreation, etc.

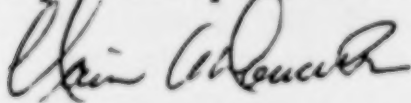
Respondent Port has completely forclosed an act of navigation, anchoring, without permit and time limits to one very dangerous, unprotected and regulated area. Despite this Court's four referenced rulings to the contrary, Respondents have steadfastly maintained their ownership of the Bay and continued to rule with an iron

hand. Many have lost vessels and property at the Port's hands.

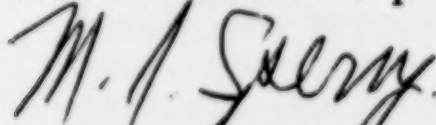
Petitioner Doucette has her original action pending appeal in the Federal Ninth District, her "Writ of Prohibition" is now before this Court for review and Co-petitioner Sperry's Superior Court case was concluded with a summary judgement against him. In all three cases, the substantial federal claims and Respondents arguments are identical.

In view of the compelling interest to the United States and this Court in the issues raised here and pursuant to S.Ct. Rule 10(1)(c), Petition for Certiorari should be granted.

Respectfully submitted,



Claire A. Doucette, petitioner-pro se



Malcolm J. Sperry, co-petitioner-pro se

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April 17, 1996

APPENDIX

Fourth Appellate District,
Division One, No. D024978
S050847

IN THE SUPREME COURT OF CALIFORNIA

CLAIRE A. DOUCETTE, Petitioner

v.

SUPERIOR COURT OF SAN DIEGO COUNTY,
Respondent
SAN DIEGO UNIFIED PORT DISTRICT,
Real Party In Interest

Application for stay and petition for
review DENIED.

SUPREME COURT
FILED
JAN 23, 1996
Robert Wandruff Clerk
DEPUTY

s/LUCAS
Chief Justice

(i)

43 USC 1301-1315.
SUBMERGED LANDS ACT

Section 1301. Definitions.

(a) The term "lands beneath navigable waters" means-
(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;
(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(ii)

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by Congress or as extended or confirmed pursuant to section 1312 of the title but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico;

(c) the term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;...

Section 1311

(d) Authority and rights of the United States respecting navigation, flood control and production of power

(iii)

Nothing in this subchapter or subchapter 1 of this chapter shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power.

Section 1313. Exceptions from confirmation and establishment of States' title, power and rights

There is excepted from the operation of section 1311 of this title-

(a) all tracts or parcels of land together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from any State or from any person in whom title had vested under the law of the State or of the United

(iv)

States, and all lands which the United States lawfully holds under the law of the State; all lands expressly retained by or ceded to the United States when the State entered the Union (otherwise than by general retention or cession of lands underlying the marginal sea); All lands acquired by the United States by eminent domain proceedings, purchase, cession, gift, or otherwise proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights the United States has in lands presently and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the United States in the exercise of its navigational servitude.

Section 1314. Rights and powers retained by the United States; purchase of natural resources; condemnation of lands

(v)

(a) The United States retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 1311 of this title.

Section 1350. Remedies and penalties

(a) Injunctions, restraining orders, etc.

At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation

(vi)

is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this subchapter, any regulation or order issued under this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter. (b) Civil penalties; hearing If any person fails to comply with any provision of this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under this subchapter, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than \$10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(c) Criminal penalties Any person who knowingly and willfully (1) violates any provision of this subchapter.

(vii)

any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under the authority of the subchapter designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this subchapter, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this subchapter, or (4) reveals any data or information required to be kept confidential by this subchapter shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(viii)

(d) Liability of corporate officers and agents for violations by corporation
Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

(e) Concurrent and cumulative nature of penalties

The remedies and penalties prescribed in this subchapter shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this subchapter shall be in addition to any other remedies and penalties afforded by any other law or regulation.

STATUTES OF CALIFORNIA. CHAPTER 1744

An act conveying in trust certain tidelands and submerged lands located in San Diego Bay to the San Diego Unified Port District in furtherance of

navigation and commerce and the fisheries, and providing for the government, management and control thereof, and reserving certain right to the state.

(Approved by the Governor July 17, 1965. filed with the Secretary of State July 23, 1965)

The people of the State of California do enact as follows:

Section 1. There is hereby granted and conveyed in trust to the San Diego Unified Port District (hereinafter referred to as the "district") in the County of San Diego, State of California, all the right, title and interest of the State of California (hereinafter referred to as the "state"), except as hereinafter reserved and upon the conditions specified herein, held by the state by virtue of its sovereignty in and to all of those certain tidelands and submerged lands in and underlying San Diego Bay, whether filled or unfilled, which are described as follows and referred to herein as the "granted lands": That portion of the tidelands and submerged lands in the Cities of Coronado, Chula Vista, National City, and

San Diego, within the County of San Diego, State of California, described as follows:....."

California Harbor and Navigation Code

Appendix 1.

San Diego Unified Port District Act.

1. This act shall be known and may be cited as the San Diego Unified Port District Act...

4. A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail, water and air terminal facilities, for the development, operation, maintenance, control, regulation and management of the Harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein. Anything herein to the contrary notwithstanding, the powers and authority herein are to be used only as necessary or incident to the development and operation of a port and shall not apply to

public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

5. The area to be embraced in the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the district as provided in this act.

The Jurisdiction of the district to exercise its power shall extend only over the following areas:

(a) The tidelands and submerged lands granted to the district pursuant to the provisions of this act.

(b) Any airport or airports now or hereafter owned and operated by any of the above-named cities which establish the district, or San Diego County, and which are conveyed to the district by such city or cities or San Diego County.

(c) Any other lands conveyed to the district by any city or by the County of San Diego...

30. The board may regulate and control the anchoring, mooring, towing, and docking of all vessels.

San Diego Unified Port District Code
4.30:

"South San Diego Bay Anchoring,
Mooring and Aquatic Activities
Regulated.

(c) Regulations

1. It shall be unlawful to
anchor, moor, make fast to the
bottom, strand, or ground any
vessel or structure or to be in
control or possession of or to
operate any vessel or structure
which is anchored, moored, made
fast to the bottom, stranded or
grounded within South San Diego
Bay as defined in Sec.4.30(b) of
this Code."

San Diego Unified Port District Code
4.35:

"Central San Diego Bay
Anchoring, Mooring and Aquatic
Activities Regulated

(c) Regulations

3. Central San Diego Bay,
Anchoring

Prohibited-....Anchoring or
mooring in Central San Diego
Bay, except in Special Federal
Anchorage A-5, and in anchorage
areas designated in Section
4.35(c) 1 and 4.35(c) 2 of the
Code is prohibited and unlawful.

4. Authorization to anchor in
Central San Diego Bay outside
designated anchorage areas for

(xiii)

limited periods of not more than
Seventy Two (72) Hours may be
obtained by application to the
Office of the Chief of San Diego
Harbor Police.

6. It shall be unlawful to
anchor, moor, make fast to the
bottom, strand, or ground any
vessel or structure or to be in
control or possession of or to
operate any vessel or structure
which is anchored, moored, made
fast to the bottom, stranded or
grounded within Central San
Diego Bay, except anchoring and
mooring as permitted in Special
Federal Anchorage A-5, and in
anchorage areas designated in
Sec. 4.35(c)1 and Sec. 4.35(c)2
of this code.

San Diego Unified Port District Code
4.40:

"North San Diego Bay Anchoring,
Mooring and Aquatic Activities
Regulated

(c) Regulations

4. It shall be unlawful to
anchor, moor, make fast to the
bottom, strand, or ground any
vessel or structure or to be in
control or possession of or to
operate any vessel or structure
which is anchored, moored, made
fast to the bottom, stranded or
grounded within North San Diego

(xiv)

Bay, with the exception of anchoring and mooring as permitted in the anchorage and mooring areas set forth in Section 4.40(b)2, (c)1 and (c)2 of this Code, or if authorized in accordance with Section 4.40(c)3 of this Code."

San Diego Unified Port District Code
8.25:

"(b) Authority to Remove Watercraft Pursuant to Judgement

1. In addition to any other remedies provided by law, the Port director or any harbor police officer is hereby authorized to remove and impound any vessel, watercraft or object which a court of competent jurisdiction determines to be in violation of any law.

2. The Port Director is authorized to enter into any contracts on behalf of the District with private parties for the removal and impounding of any vessel, watercraft or object which a court of competent jurisdiction determines to be in violation of any law.

3. The registered and legal owners of record, or the agent of any such vessel, watercraft or object so removed and

impounded shall have the right to secure the release of such vessel, watercraft or object after furnishing proof of such ownership to the District and after payment to the District of the costs and expenses for such removal, impound and storage.

4. If the owner or agent of any such vessel, watercraft or object cannot be found within Thirty (30) days, or refuses upon demand to pay the lawful costs and expenses as provided above, the District may sell the property at public auction after publication of the sale is advertised in a newspaper of general circulation at least Five (5) days prior thereto, or, the District may keep, destroy or otherwise dispose of such property.

5. Harbors and Navigation Code Section 500 et seq. shall apply to the disposition of vessels registered with the Department of Motor Vehicles. Nothing herein shall relieve the owner of such vessel, watercraft or object from independent personal liability for such costs and expenses and any such owner or person responsible shall remain so liable."

**SUPPLEMENTAL
APPENDIX**

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

CLAIRE A. DOUCETTE,
Petitioner

D024978

v.

**(Super. Ct. No.
N689204)**

**THE SUPERIOR COURT
OF SAN DIEGO COUNTY,
Respondent;
SAN DIEGO UNIFIED PORT DISTRICT,
Real Party in Interest,**

**Filed December 13, 1995.
Stephen M. Kelly, Clerk
Court of Appeal Fourth District**

THE COURT:

**The petition for writ of prohibition has
been read and considered by Justices
Benke, Nares and Haller.
The petition is denied.**

**s/Nares
NARES, Acting P.J.**

Copies to: All parties